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JUN 29 2007

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In Re Application Of:

FULLER

Serial No.: 10/823,017

Filed: 04 April 2004

For: Method and Apparatus for Non-
Invasive Analysis of Blood Glucose)

Group Art Unit: 3735

Examiner: Navin Natnithithadha

Attorney Docket No.: 300004-00003C

PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED
UNINTENTIONALLY UNDER 37 CFR 1.137(b) AND STATEMENT ESTABLISHING
UNINTENTIONAL DELAY

Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

This petition and statement are responsive to the unintentional abandonment of the above identified application on 6 June 2007. The petition fee is enclosed herewith, along with the issue fee and publication fee.

Remarks

The above identified application has been unintentionally abandoned. A Notice of Allowance and Fee Due was mailed to Applicant's representative on 06 March 2007. Sometime between that date and 04 May 2007, when Applicant filed a 312 Amendment, Applicant's representative received a telephone call from an unidentified representative of the USPTO (a name was provided, but the mobile telephone connection was poor and the name was not clearly

heard) regarding a typographical error in claim 9 that was not detected until after the Notice of Allowance was mailed on 06 March 2007. Applicant was requested to file a 312 Amendment to correct the error. Applicant's representative also apparently misunderstood the USPTO representative to state that the Notice of Allowance would be withdrawn or suspended pending receipt of the 312 Amendment. On 04 May 2007, Applicant filed the 312 Amendment and waited to receive a response from the USPTO.

When no response was forthcoming, Applicant's representative began to monitor the public PAIR information for the application to see if the 312 Amendment had been entered and the Notice of Allowance withdrawn or suspended. Prior to the due date for payment of the issue fee, Applicant's representative called the Examiner and left a message regarding the status of the 312 Amendment and the due date. The Examiner returned Applicant's representative's call and left a message indicating that there was some delay associated with entry of the 312 Amendment, so Applicant's representative waited for the delay to be resolved. After a series of additional calls between the Applicant's representative and the Examiner, on 29 June 2007 a Response to Rule 312 Communication was faxed to Applicant's representative (a copy of which is appended hereto) and the Examiner and Applicant's representative had a telephone call discussing the status of the due date on the Notice of Allowance. It was not until this point in time that Applicant's representative realized that the Notice of Allowance had not been withdrawn and had not been suspended as Applicant's representative had thought would occur and that the statutory period for payment of the issue fee and publication fee had passed, resulting in abandonment of the application.

Applicant respectfully submits that its abandonment of the application was therefore unintentional and hereby petitions the Commissioner of Patents to revive the application under 37 CFR 1.137(b).

Applicant looks forward to acceptance of this petition. Applicant has submitted herewith the petition fee, the issue fee and the publication fee for this application.

Date: 29 June 2007

By: 

Timothy D. Casey
Reg. No. 33,124
Direct Tel. No. 775-336-6465

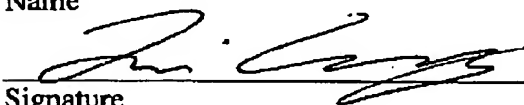
Date of Deposit: 29 June 2007

I hereby certify that this paper or fee has been transmitted by facsimile on the date indicated above to the United States Patent and Trademark Office at (571) 273-8300.

TIMOTHY D CASEY

Name

Signature



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JUN 29 2007



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Fax Cover Sheet

Date: 29 Jun 2007

To: Tim Casey	From: Navin Nambithadha
Application/Control Number: 10/823,017	Art Unit: 3735
Fax No.: (775) 336-6468	Phone No.: (571) 272-4732
Voice No.: (775) 815-9681	Return Fax No.: (571) 273-8300
Re: Response to Rule 312 Communication	CC:
<input type="checkbox"/> Urgent <input type="checkbox"/> For Review <input type="checkbox"/> For Comment <input type="checkbox"/> For Reply <input checked="" type="checkbox"/> Per Your Request	

Comments:

Enclosed:

PTOL-271 Response to Rule 312 Communication

Number of pages 2 including this page

STATEMENT OF CONFIDENTIALITY

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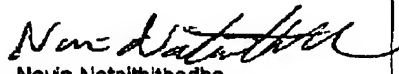
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Response to Rule 312 Communication	Application No.	Applicant(s)	
	10/823,017	FULLER, MILTON A.	
	Examiner	Art Unit	
	Navin Natnithithadha	3735	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

1. ☒ The amendment filed on 04 May 2007 under 37 CFR 1.312 has been considered, and has been:

- a) ☐ entered.
- b) ☒ entered as directed to matters of form not affecting the scope of the invention.
- c) ☐ disapproved because the amendment was filed after the payment of the issue fee.
Any amendment filed after the date the issue fee is paid must be accompanied by a petition under 37 CFR 1.313(c)(1) and the required fee to withdraw the application from issue.
- d) ☐ disapproved. See explanation below.
- e) ☐ entered in part. See explanation below.


Navin Natnithithadha
Patent Examiner
Art Unit 3735
6/26/2007

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JUN 29 2007

5422 Longley Lane, Suite B - Reno, NV 89511

O: 775.336.6464

F: 775.336.6468

fax

to

date: 29 June 2007

name: Mail Stop Petition, Commissioner for Patents

company: USPTO

fax: 571-273-8300 and 571-273-2885

phone:

from

name: Timothy D. Casey

company: SilverSky Group

fax: 775.336.6468

phone: 775.336.6464

Enclosed please find 12 pages (including cover), including:

- Petition for revival of an application for patent abandoned unintentionally
- Applicant's statement and PTO-271 Response to Rule 312 Communication
- Part B - Fee Transmittal
- Credit Card Payment Form
- Change of Correspondence Address
- Fee Address Indication Form

PTO/SB/54 (04-07)

Approved for use through 09/30/2007. OMB 0851-0031

U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

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**PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT
ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137(b)**Docket Number (Optional)
300004-00003C

First named inventor: MILTON A. FULLER

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Application No.: 10/823,017

Art Unit: 3735

JUN 29 2007

Filed: 04/12/2004

Examiner: NATNITHITHADHA, NAVIN

Title: METHOD AND APPARATUS FOR NON-INVASIVE ANALYSIS OF BLOOD GLUCOSE

Attention: Office of Petitions
Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450
FAX (571) 273-8300NOTE: If information or assistance is needed in completing this form, please contact Petitions
Information at (571) 272-3282.The above-identified application became abandoned for failure to file a timely and proper reply to a notice or
action by the United States Patent and Trademark Office. The date of abandonment is the day after the expiration
date of the period set for reply in the office notice or action plus an extensions of time actually obtained.**APPLICANT HEREBY PETITIONS FOR REVIVAL OF THIS APPLICATION**

NOTE: A grantable petition requires the following items:

- (1) Petition fee;
- (2) Reply and/or issue fee;
- (3) Terminal disclaimer with disclaimer fee - required for all utility and plant applications
filed before June 8, 1995; and for all design applications; and
- (4) Statement that the entire delay was unintentional.

1. Petition fee☒ Small entity-fee \$ 750.00 (37 CFR 1.17(m)). Applicant claims small entity status. See 37 CFR 1.27.☐ Other than small entity - fee \$ _____ (37 CFR 1.17(m))**2. Reply and/or fee**A. The reply and/or fee to the above-noted Office action in
the form of PAYMENT OF ISSUE FEE AND PUBLICATION FEE (identify type of reply):

- ☐ has been filed previously on _____
- ☒ is enclosed herewith.

B. The issue fee and publication fee (if applicable) of \$ 1,000.00

- ☐ has been paid previously on _____
- ☒ is enclosed herewith.

(Page 1 of 2)

This collection of information is required by 37 CFR 1.137(b). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1.0 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

PTO/SB/64 (04-07)

Approved for use through 09/30/2007. OMB 0561-0031
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

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3. Terminal disclaimer with disclaimer fee

☒ Since this utility/plant application was filed on or after June 8, 1995, no terminal disclaimer is required.☐ A terminal disclaimer (and disclaimer fee (37 CFR 1.20(d)) of \$ _____ for a small entity or \$ _____ for other than a small entity) disclaiming the required period of time is enclosed herewith (see PTO/SB/63).

4. STATEMENT: The entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional. [NOTE: The United States Patent and Trademark Office may require additional information if there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137(b) was unintentional (MPEP 711.03(c), subsections (III)(C) and (D)).]

WARNING:

Petitioner/applicant is cautioned to avoid submitting personal information in documents filed in a patent application that may contribute to identity theft. Personal information such as social security numbers, bank account numbers, or credit card numbers (other than a check or credit card authorization form PTO-2038 submitted for payment purposes) is never required by the USPTO to support a petition or an application. If this type of personal information is included in documents submitted to the USPTO, petitioners/applicants should consider redacting such personal information from the documents before submitting them to the USPTO. Petitioner/applicant is advised that the record of a patent application is available to the public after publication of the application (unless a non-publication request in compliance with 37 CFR 1.213(a) is made in the application) or issuance of a patent. Furthermore, the record from an abandoned application may also be available to the public if the application is referenced in a published application or an issued patent (see 37 CFR 1.14). Checks and credit card authorization forms PTO-2038 submitted for payment purposes are not retained in the application file and therefore are not publicly available.


 Signature

06/29/07

Date

TIMOTHY D CASEY

Typed or printed name

33124

Registration Number, if applicable

5422 LONGLEY LANE, SUITE B

Address

775-336-6464

Telephone Number

RENO, NEVADA 89511

Address

Enclosures: ☒ Fee Payment☒ Reply☐ Terminal Disclaimer Form☒ Additional sheets containing statements establishing unintentional delay and copy of fax cover sheet and response to 312 communication.☒ Other: CHANGE CORRESPONDENCE ADDRESS, FEE ADDRESS INDICATION, CREDIT CARD PAYMENT**CERTIFICATE OF MAILING OR TRANSMISSION [37 CFR 1.8(a)]**

I hereby certify that this correspondence is being:

☐ Deposited with the United States Postal Service on the date shown below with sufficient postage as first class mail in an envelope addressed to: Mail Stop Petition, Commissioner for Patents, P. O. Box 1450, Alexandria, VA 22313-1450.☒ Transmitted by facsimile on the date shown below to the United States Patent and Trademark Office at (571) 273-8300.

06/29/07

Date


 Signature

Timothy D. Casey

Typed or printed name of person signing certificate

[Page 2 of 2]

PTO/SB/122 (01-06)
Approved for use through 12/31/2009. OMB 0861-0036
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

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CHANGE OF CORRESPONDENCE ADDRESS Application

Address to:
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Application Number	10/823,017
Filing Date	04/12/2004
First Named Inventor	MILTON A. FULLER
Art Unit	3735
Examiner Name	NATNITHITHADHA, NAVIN
Attorney Docket Number	300004-00003C

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This form cannot be used to change the data associated with a Customer Number. To change the data associated with an existing Customer Number use "Request for Customer Number Data Change" (PTO/SB/124).

I am the:

- ☐ Applicant/Inventor
- ☐ Assignee of record of the entire interest.
Statement under 37 CFR 3.73(b) is enclosed. (Form PTO/SB/96).
- ☒ Attorney or agent of record. Registration Number 33124
- ☐ Registered practitioner named in the application transmittal letter in an application without an executed oath or declaration. See 37 CFR 1.33(a)(1). Registration Number _____

Signature

Typed or Printed
Name TIMOTHY D CASEY

Date 06/29/2007

Telephone 775-336-6464

NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required. Submit multiple forms if more than one signature is required, see below.

☒ Total of ONE forms are submitted.

This collection of information is required by 37 CFR 1.33. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 36 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 3 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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